

**FEDERAL COMMUNICATIONS COMMISSION**  
**445 TWELFTH STREET, SW**  
**WASHINGTON, DC 20554**

MEDIA BUREAU  
AUDIO DIVISION  
TECHNICAL PROCESSING GROUP  
APPLICATION STATUS: (202) 418-2730  
HOME PAGE: [www.fcc.gov/mb/audio/](http://www.fcc.gov/mb/audio/)

ENGINEER: Frank Takacs  
TELEPHONE: (202) 418-1632  
FACSIMILE: (202) 418-1411  
MAIL STOP: 1800B3-FT  
INTERNET ADDRESS: [Frank.Takacs@fcc.gov](mailto:Frank.Takacs@fcc.gov)

July 14, 2010

Family Life Ministries, Inc.  
P.O. Box 506  
Bath, NY 14810

Re: WCIM(FM), Shenandoah, Pennsylvania  
Family Life Ministries, Inc.  
Facility ID No. 90214  
File No. BPED-20100514ABG

Dear Applicant:

This letter is in reference to minor change application BPED-20100514ABG (the "Application") filed by Family Life Ministries, Inc. ("Family"), licensee of noncommercial educational ("NCE") FM station WCIM(FM), Shenandoah, Pennsylvania, requesting modification of the WCIM(FM) facilities. The Application proposes an increase in WCIM(FM) effective radiated power (ERP) and requests waiver of the contour overlap provisions of 47 C.F.R. § 73.509. For the reasons discussed below, we grant Family's waiver request and the Application.

***Waiver Request.*** An engineering review of the Application reveals that the proposed WCIM(FM) facilities would receive prohibited contour overlap from second-adjacent channel FM stations WBUQ(FM), Bloomsburg, Pennsylvania, (File No. BLED-19850708KI) and WBYK(FM), Kulpmont, Pennsylvania, (File No. BMPED-20081201ABF), in violation of 47 C.F.R. § 73.509. Family recognizes this prohibited contour overlap in the Application and requests waiver of 47 C.F.R. § 73.509.

In support of its waiver request, Family reports that the proposed facilities will increase the WCIM(FM) 60 dB $\mu$  coverage area from 183,350 persons in 1,850 square kilometers to 234,991 persons in 2,549 square kilometers. This is a 28.2 percent increase in population and a 37.8 percent increase in area served. Additionally, Family states that the proposed WCIM(FM) facilities will provide a new interference-free first NCE FM service to 9,012 persons within an area of 102.7 square kilometers, and a second interference-free NCE FM service to 15,384 persons within an area of 313.1 square kilometers. Family asserts that the proposed WCIM(FM) facilities will not cause prohibited contour overlap to WBUQ(FM) or WBYK(FM), and affirms that the proposed WCIM(FM) facilities will receive second-adjacent channel contour overlap from WBUQ(FM) within a 7.3 square kilometer area containing 11,506 persons, and from WBYK(FM) within a 4.6 square kilometer area containing 10 persons. Family calculates that the combined overlap areas comprise only 0.47 percent of the area and 4.9 percent of the population within the proposed WCIM(FM) 60 dB $\mu$  coverage contour. Finally, Family cites *Educational Information Corporation*, 6 FCC Rcd 2207 (1991), as evidence of the Commission's willingness to consider waivers of such overlap in certain instances, argues that the overlap area is small and the

increased service area is substantial, and concludes that waiver of 47 C.F.R. § 73.509 is warranted in this case.

**Discussion.** Family's request to receive second-adjacent channel overlap is similar to the request submitted by WCPE(FM), Raleigh, NC in the *Educational Information Corporation* case. In that case it was stated that:

The Commission has long recognized the unique characteristics of the noncommercial service and the need for flexibility to respond to the growing demand for such service. We are also more sensitive today to the increasing limitations within the reserved band which reflect the increased demand for service over the last 30 years. For these reasons, we are now inclined to grant waivers of second or third adjacent channel overlap in circumstances such as WCPE's, where the benefit of increased noncommercial educational service so heavily outweighs the potential for interference in very small areas. However, because of the concern for the ability of the stations causing interference to make any future changes in their own facilities, as discussed below, we believe that the waiver of interference received must be granted with the acknowledgement that future modifications proposed by the affected licensees will not be construed as a *per se* modification of the waiver recipient's license.

Accordingly, in light of the Commission's policy on this matter, the requested waiver of 47 C.F.R. § 73.509 will be granted.

**Conclusion.** When an applicant seeks waiver of the rules, it must plead with particularity the facts and circumstances which warrant such action. *Columbia Communications Corp. v. FCC*, 832 F.2d 189, 192 (D.C. Cir. 1987) (quoting *Rio Grand Family Radio Fellowship, INC. v. FCC*, 406 F.2d 644, 666 (D.C. Cir. 1968) (per curiam)). We have afforded Family's request for waiver of 47 C.F.R. § 73.509 the "hard look" called for under *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), and find that the facts and circumstances presented in the applicant's justification is sufficient to establish that grant of the requested waiver would be in the public interest. Accordingly, Family's request for waiver of 47 C.F.R. § 73.509 IS HEREBY GRANTED. Furthermore, application File No. BPED-20100514ABG IS HEREBY GRANTED subject to the following condition:

Future modifications of the facilities of stations WBUQ(FM), Bloomsburg, PA, Facility ID No. 5881, and WBYK(FM), Kulpmont, PA, Facility ID No. 174790, will not be construed as *per se* modifications of WCIM(FM) construction permit BPED-20100514ABG. (See *Educational Information Corporation*, 6 FCC Rcd. 2207 (1991)).

The authorization is enclosed. These actions are taken pursuant to 47 C.F.R. § 0.283.

Sincerely,



Susan N. Crawford  
Assistant Chief  
Audio Division  
Media Bureau

cc: Mark D. Humphrey